

3104
43-B

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
U. S. PATENT OFFICE,

WASHINGTON, February 15, 1866.

To the Clerk of the District Court of the United States at *San Antonio, N. M.*

SIR:

In order to facilitate your compliance with the laws, and the regulations which have been adopted under them, for the transmission of copyright works and the copies of the records to Washington, your attention is requested to the subjoined legislative enactments bearing on the subject:

AN ACT to amend the several acts respecting copyrights, approved February 3, 1831.

SEC. 4. *And be it further enacted,* That no person shall be entitled to the benefit of this act unless he shall, before publication, deposit a printed copy of the title of such book or books, map, chart, musical composition, print, cut, or engraving, in the clerk's office of the district court of the district wherein the author or proprietor shall reside; and the clerk of such court is hereby directed and required to record the same forthwith, in a book to be kept for that purpose, in the words following (giving a copy of the title, under the seal of the court, to the said author or proprietor, whenever he shall require the same:) "District of _____, to wit: Be it remembered, that on the _____ day of _____, anno Domini _____, A B, of the said district, hath deposited in this office the title of a book, (map, chart, or otherwise, as the case may be,) the title of which is in the words following, to wit: (here insert the title;) the right whereof he claims as author, (or proprietor, as the case may be,) in conformity with an act of Congress entitled 'An act to amend the several acts respecting copyrights.' C D, clerk of the district." For which record the clerk shall be entitled to receive, from the person claiming such right as aforesaid, fifty cents; and the like sum for every copy, under seal, actually given to such person or his assigns. And the author or proprietor of any such book, map, chart, musical composition, print, cut, or engraving, shall, within three months from the publication of said book, map, chart, musical composition, print, cut, or engraving, deliver, or cause to be delivered, a copy of the same to the clerk of said district. And it shall be the duty of the clerk of each district court, at least once in every year, to transmit a certified list of all such records of copyright, including the titles so recorded and the dates of record, and also all the several copies of books or other works deposited in his office according to this act, to the Secretary of State, to be preserved in his office.

By the 8th section of an Act providing for keeping and distributing all public documents, approved February 5, 1859, it is provided that all copyright works and records previously deposited at the Department of State shall be removed to the Department of the Interior, which Department shall thenceforth have charge of all matters pertaining to copyright, in like manner as hitherto the Department of State; and, by the 1st section of an Act approved March 3, 1865, the provisions of the act of 1831 are extended to photographs and the negatives thereof as prints and engravings.

As all the acts of Congress relating to copyrights are designed to promote the acquisition and diffusion of knowledge, and to encourage the production and publication of works of art, it has always been held that stamps, labels, and other trade-marks of any manufactured article, goods, or merchandise, are not embraced within the meaning of the acts. When any production is issued as an object of art, having a value in itself, and intended for sale as such, it properly

comes within the provisions of the copyright law; but when, however artistically executed, it is not produced for sale as a work of art, but is designed to be affixed in the manner of a label to a manufactured article, it then plainly falls under the act relating to patents for designs, and consequently cannot be protected by copyright.

Experience having shown it to be convenient, and indeed necessary, for fulfilling the intention of the law, that duplicates of the records should be sent to the Department in addition to the certified lists called for by the act of 1831, a circular was accordingly issued in the year 1834 to the clerks of the several districts, requesting them to send in future such duplicates arranged and numbered in order of date, and to inscribe the number and date of each record on the blank leaf of the publication to which it relates. (On this leaf should also be inscribed the date of deposit of the publication.) Since that period this request has been very generally complied with. To increase the facility of doing so, and to insure uniformity in the files preserved in this office, it has been decided to supply each district clerk with the necessary blanks for the purpose, which will be furnished as they are required.

When the list of copyrights exceeds one sheet, all the sheets of which it is composed should be securely fastened together, so as to form one document, and to it should be appended a certificate in the following or an equivalent form:

DISTRICT COURT OF THE UNITED STATES,
District of _____

I hereby certify that the foregoing is a true list of all the records of copyrights, including the titles recorded and the dates of record, of books and other works secured at this office from _____, A. D. _____, to _____, A. D. _____, both days inclusive.

(Signed) _____,

Clerk of the District.

The law requires that the copyright publications shall be forwarded "at least once in every year;" but, for the sake of convenience, it has been the practice of the clerks of those districts in which a large number of copyrights are granted, to send the publications to Washington every six or three months. It is requested that this practice be continued.

The duties respecting copyrights devolved upon the Department of the Interior by the act of 1859 having been assigned to the Patent Office, it is requested that all cases and packages of copyright publications be forwarded by express, addressed to the Commissioner of Patents, and distinctly marked "Copyright matter." The expense of transportation will be paid at this office.

It is held that the fee prescribed by the 4th section of the act of 1831 was designed to afford compensation for all the services required under its provisions.

I am, very respectfully, yours,

Richard Foster

~~T. C. THEAKER,~~

Commissioner.

Dep't of Interior
September 16. 1868.
Official

J. M. Clark
Clerk

E